

COMMISSION REGULATION (EC) No 2125/2005

of 22 December 2005

laying down transitory measures arising from the adoption of improved trade arrangements concerning the export of certain processed agricultural products to Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) The Community has recently concluded a trade agreement for processed agricultural products with Romania in preparation for its accession to the Community. This agreement provides for concessions involving on the Community side the abolition of export refunds on certain processed agricultural products.
- (2) EU-Romania Association Council Decision No 3/2005 of 5 July 2005 concerning the improvement of the trade arrangements for processed agricultural products provided in Protocol 3 of the Europe Agreement ⁽²⁾ provides for the abolition of refunds on processed agricultural products not listed in Annex I to the Treaty when exported to Romania, from 1 December 2005.
- (3) In return for the abolition of export refunds as set out in EU-Romania Association Council Decision No 3/2005, the Romanian authorities have undertaken to grant reciprocal preferential import arrangements to goods imported into their territory if the goods concerned are accompanied by a copy of the export declaration containing a special mention indicating that they are not eligible for payment of export refunds. The full rate of duty applies in the absence of such documentation.
- (4) With the entry into force of EU-Romania Association Council Decision No 3/2005, goods for which operators have applied for refund certificates in accordance with Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the

Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾ will no longer be eligible for refund when they are exported to Romania.

- (5) Reduction of refund certificates and *pro rata* release of the corresponding refund security should be allowed where operators can demonstrate to the satisfaction of the national competent authority that their claims for refunds have been affected by the entry into force of EU-Romania Association Council Decision No 3/2005. When assessing requests for reduction of the amount of the refund certificate and proportional release of the relevant security, the national competent authority should, in cases of doubt, have regard in particular to the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC ⁽⁴⁾ without prejudice to the application of the other provisions of that Regulation. For administrative reasons it is appropriate to provide that requests for reduction of the amount of the refund certificate and release of the security are to be made within a short period and that the amounts for which reductions have been accepted are to be notified to the Commission in time for their inclusion in the determination of the amount for which refund certificates for use from 1 February 2006 shall be issued, pursuant to Regulation (EC) No 1043/2005.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Goods in respect of which export refunds have been abolished by EU-Romania Association Council Decision No 3/2005 shall be imported free of customs duties, free of customs duties within quotas, or at reduced rates of customs duties into Romania if the goods concerned are accompanied by a duly completed copy of the export declaration with the following entry in Box 44:

'Export Refund: 0 EUR/EU-Romania Association Council Decision No 3/2005'.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

⁽²⁾ OJ L 324, 10.12.2005, p. 26.

⁽³⁾ OJ L 172, 5.7.2005, p. 24.

⁽⁴⁾ OJ L 388, 30.12.1989, p. 18. Regulation as last amended by Regulation (EC) No 2154/2002 (OJ L 328, 5.12.2002, p. 4).

Article 2

1. Refund certificates issued in accordance with Regulation (EC) No 1043/2005 in respect of exports of the goods for which export refunds have been abolished by EU-Romania Association Council Decision No 3/2005 may, at request of the interested party, be reduced under the conditions provided for in paragraph 2.
2. To be eligible for reduction of the amount of the refund certificate, the certificates referred to in paragraph 1 must have been applied for before the date of entry into force of EU-Romania Association Council Decision No 3/2005 and their validity period must expire after 30 November 2005.
3. The certificate shall be reduced by the amount for which the interested party is unable to claim export refunds following the entry into force of EU-Romania Association Council Decision No 3/2005, as demonstrated to the satisfaction of the national competent authority.

In making their appraisal the competent authorities shall, in cases of doubt, have regard in particular to the commercial documents referred to in Article 1(2) of Regulation (EEC) No 4045/89.

4. The relevant security shall be released in proportion to the reduction concerned.

Article 3

1. To be eligible for consideration under Article 2, the national competent authority must receive the requests by 7 January 2006, at the latest.
2. Member States shall notify the Commission not later than 14 January 2006 of the amounts for which reductions have been accepted in accordance with Article 2(3) of this Regulation. The notified amounts shall be taken into account for the determination of the amount for which refund certificates for use from 1 February 2006 shall be issued, pursuant to point (c) of Article 33 of Regulation (EC) No 1043/2005.

Article 4

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 2005.

For the Commission
Günter VERHEUGEN
Vice-President
